

Prudential Regulators Revise Initial Margin Rules for Uncleared Swaps

Article By:

Guy C. Dempsey, Jr.

On June 25, the five prudential regulators responsible for the margin rules for bank swap dealers (the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation (FDIC), the Farm Credit Administration and the Federal Housing Finance Agency) adopted one final rule and one interim final rule that modify their original framework for margining uncleared swaps.

The final rule amends the original swap margin rule in the following noteworthy ways:

1. It permits swaps entered into prior to an applicable compliance date (legacy swaps) to retain their legacy status in the event that they are amended to replace a discontinued interest rate.
2. It exempts non-cleared swaps between a bank and its affiliates from the initial margin requirements (subject to a limit equal to 15 percent of then bank's tier 1 capital), but clarifies that swaps between a bank and its affiliates also are subject to sections 23A and 23B of the Federal Reserve Act of 1913 and Regulation W.
3. It introduces an additional compliance date for initial margin requirements (the so-called Phase 6).
4. It clarifies that initial margin trading documentation is not required prior to the time that a swap dealer is actually required to collect or post initial margin.
5. It permits legacy swaps to retain their legacy status in the event that they are amended due to technical amendments, notional reductions or portfolio compression exercises.

The interim final rule aligns the US schedule for the phase-in of initial margin for uncleared swaps with the revised global schedule recommended by the Basel Committee on Banking Supervision (BCBS) and the International Organization of Securities Commissions (IOSCO) under which Phase 5 entities (with average annual notional swap portfolios of \$50 billion to \$750 billion) must comply starting September 1, 2021 and Phase 6 entities (with average annual notional swap portfolios of \$8 billion to \$50 billion) must start compliance on September 1, 2022.

The final rule, which will be effective 60 days after publication in the *Federal Register*, available [here](#).

The interim final rule, available [here](#), is open for comment for 60 days and will be effective 61 days after publication in the *Federal Register*.

©2025 Katten Muchin Rosenman LLP

National Law Review, Volume X, Number 178

Source URL: <https://natlawreview.com/article/prudential-regulators-revise-initial-margin-rules-uncleared-swaps>